

333 CMR 13.00: STANDARDS FOR APPLICATION

Section

- 13.01: Purpose
- 13.02: Definitions
- 13.03: General Provisions
- 13.04: Exclusions for Application
- 13.05: Application by Aircraft
- 13.06: Application for Subsurface Pests
- 13.07: Application for Turf Pests
- 13.08: Unique Chemical Application
- 13.09: Safety
- 13.10: Commercial Application of Pesticides to Indoor Settings

13.01: Purpose

The purpose of 333 CMR 13.00 is to establish the standards, requirements and procedures for the application of pesticides.

13.02: Definitions

For the purposes of 333 CMR 13.00, the definitions set forth in 333 CMR 2.00, 333 CMR 10.00, 333 CMR 10.02, and 333 CMR 13.03 apply, unless the context or subject matter requires a different interpretation.

13.03: General Provisions

- (1) No Person shall purchase or use a federally registered pesticide that has not been registered by the Subcommittee pursuant to 333 CMR 8.03. This prohibition shall not apply in the case where an experimental use permit has been issued by the Subcommittee.
- (2) No person shall use a pesticide that has been classified by the Subcommittee as being for restricted or state limited use unless he is an appropriately certified private or commercial applicator or an individual acting under the direct supervision of an appropriately certified applicator. This requirement does not apply to persons conducting laboratory type research involving restricted or state limited use pesticides: or Doctors of Medicine and Doctors of Veterinary Medicine applying pesticides as drugs or medication during the course of their normal practice.
- (3) No person shall use, or supervise the use as a commercial applicator any pesticide classified by the Subcommittee as being for general use unless he either is appropriately certified or appropriately licensed.
- (4) In accordance with the standards and procedures set forth in 333 CMR 10.00, the Department shall issue to individuals certification and licenses to use pesticides. Each certification and license issued pursuant to 333 CMR 10.00 shall be valid only for the individual to whom it is issued, may not be transferred and shall not continue in force and effect after the death of the individual to whom it is issued. All certifications and licenses shall be for a period not to exceed one year, unless sooner revoked or suspended.
- (5) The Department may issue a certification or license to an applicator if it determines that he satisfies the criteria and standard established by the Board for that certification or license, and any appropriate category or subcategory. The Department may issue a certification or license subject to such terms, conditions, restrictions and requirements as it deems necessary.
- (6) No person shall use a registered pesticide in a manner that is inconsistent with its labeling or other restrictions imposed by the Department, Board or Subcommittee.
- (7) No person shall detach, alter, deface, or destroy, wholly or in part, any label or labeling provided for by the Massachusetts Pesticide Control Act or FIFRA or in rules and regulations

adopted thereunder.

13.03: continued

(8) No person shall add any substance to, or take any substance from, a pesticide product in a manner that may defeat the purposes of the Massachusetts Pesticide Control Act or regulations adopted thereunder.

(9) No person shall distribute, handle, dispose of, discard or store any pesticide or pesticide container in such a manner as to cause or which is likely to cause injury, as determined by the Department, to humans, vegetation, crops, livestock, wildlife or beneficial insects, to cause damage to the environment or to pollute any water supply, waterway, groundwater or waterbody.

(10) No individual, certified or licensed as a pesticide applicator, shall violate any provision, condition, term or restriction of his certification or license.

(11) All persons shall use pesticides in such a manner that there be no unreasonable adverse effect on the non-target environment.

(12) All persons shall:

- (a) Use only methods and equipment which insure proper application of materials.
- (b) Operate in a careful manner and only when conditions are proper for controlling pests in the locality.
- (c) Make no false or fraudulent claims. The term fraud includes misrepresentation personally or through the media, falsified records, invoices or reports.

(13) All persons are prohibited from spraying or applying pesticides to fruit trees, alfalfa, clover, or trefoil grown as field-crops while in bloom, or in other appropriate circumstances, without making reasonable inquiry as to the present of apiaries on the premises or in the immediate vicinity and shall make reasonable efforts to provide prior notification to owners of said apiaries, except where the pesticide is a blossom thinning spray, fungicide, or pesticide products bearing no label warnings of harmful effects on bees.

(14) All uses of pesticides on rights-of-way shall be conducted in such a manner so as to minimize the extent and duration of foliar brown-out.

(15) Pesticide application or mixing equipment designed, sold or intended for use in Massachusetts:

- (a) By attachment to pipes or fixtures carrying potable water shall have as an integral part or have attached between it and said pipes or fixtures an anti-siphonage device approved by the Department of Environmental Protection.
- (b) For drawing water from the surface waters of the Commonwealth shall have an effective anti-siphonage device approved by the Department of Environmental Protection.

(16) Intentional application of a pesticide to any surface waters or their tributaries used for public water supply shall require authorization by the Department of Environmental Protection.

(17) Pesticide applications to lands near or adjacent to public water supplies shall be made in such a manner as to minimize the risk of adverse effects to such water supplies.

(18) No application of restricted or state limited use pesticide to areas in excess of 25 acres shall be made unless the conditions set forth below have been met. This provision shall apply to applications to areas managed for forest product production, but shall not apply to other agricultural applications.

- (a) Notification of the proposed application has been given to the Department by the applicator and the Department has reviewed and approved said application. Said notice shall include, but not be limited to: date; location identified on a U.S.G.S. topographical map; pesticide to be applied and the quantity of pesticide to be applied. The Department shall issue a written approval or rejection of the proposed application, as soon as possible, but in no case, later than two weeks after submission of a complete application.

13.03: continued

(b) Notification of any proposed aerial application has been given by the applicator to members of the public residing on lands within the target area or on adjacent lands by publication of a timely notice in a newspaper of general circulation in the municipality affected.

(c) Notification of the proposed applications has been given by the applicator to the local Superintendent of Pest Control.

In the event of an emergency situation requiring immediate aerial application of pesticides, the Department may waive the provisions of 333 CMR 13.03(18) (b). In the event of a waiver, the Department may expedite the notification process through the use of public service radio or television announcements.

(19) No application of restricted use or state limited use pesticide, as classified in 333 CMR 8.05(3), bearing the Signal word "Danger" for the purpose of producing an agricultural commodity shall be made to a site within 50 feet of a public way unless notice of the application is given by the posting of a sign. All signs posted pursuant to 333 CMR 13.03(19) shall:

(a) Be posted at least every 200 feet along the perimeter of the treated area facing the public way and at every principal entrance to the treated area facing the public way;

(b) Be posted prior to the application, but not more than 24 hours prior to application;

(c) Be removed no sooner than 48 hours after the application and no sooner than the expiration of any Restricted Entry Interval (REI) stated on the label instructions under the heading "Agricultural Use Requirements."

(d) Be removed no later than 120 hours after the application;

(e) Have a background color that contrasts with red. The words "Danger" and "Peligro", plus "Pesticides" and "Pesticidas" shall be at the top of the sign, and the words "Keep Out" and "No Entre" shall be at the bottom of the sign. Letters for all words must be clearly legible. A circle containing an upraised hand on the left and a stern face on the right must be at the center of the sign. The inside of the circle must be red, except that the hand and a large portion of the face must be in a shade that contrasts with red. The length of the hand must be at least twice the height of the smallest letters. The length of the face must be only slightly smaller than the hand. Additional information such as the name of the pesticide and the date of application may appear on the warning sign if it does not detract from the appearance of the sign or change the meaning of the required information.

(f) Be at least 14 inches by 16 inches in size, and the letters shall be at least one inch in height.

(20) Pesticide applications made to areas adjacent to crops or pasture land shall be so made that residues in excess of Environmental Protection Agency tolerance for crops and pasturage do not occur.

(21) No pesticide application shall be made in violation of any statutes, rules, or regulations of the Commonwealth, including, but not limited to, regulations promulgated by the Department of Environmental Protection, the Department of Fisheries, Wildlife and Recreational Vehicles and the Department of Public Health.

13.04: Exclusions for Application

No intentional application of pesticides shall be made to private property which has been designated for exclusion from such application by a person living on or legally in control of said property.

Designation for exclusion may be made by supplying the clerk of the municipality in which such lands lie with a certified letter providing the name, address, telephone number (if any), the names of all abutters, and defining programs from which exclusion is requested.

Designations may be made prior to March 1 of each year and shall be effective from April 1 of that year through March 31 of the following year.

A designation for exclusion made by a tenant shall not be deemed to limit the right of the owner of land to apply or authorize the application of pesticides to such land if by the express or implied terms of the written or oral rental agreement the owner retains the right to apply or authorize the application of such pesticides.

13.04: continued

333 CMR 13.00 shall not be deemed to limit the right of the holder of an easement to apply pesticides to land which is subject of such easement expressly or implicitly includes the right to apply pesticides.

A designation for exclusion made by a joint owner, tenant in common, or owner of a condominium unit shall not be deemed to limit the right of any other joint owner, tenant in common, condominium unit owner or condominium association to apply or authorize the application of pesticides to land if by the express or implied terms of the deed, condominium agreement or other agreement governing such land such other joint owner, tenant in common, condominium unit owner or condominium association retains the right to apply or authorize the application of such pesticides.

(1) All areas designated for exclusion from direct application of pesticides shall be marked as follows:

(a) Applications by Aircraft: Boundaries shall be clearly marked by helium filled balloons or other marking methods previously approved by the Department. Such balloons or other working materials shall be provided by the contracting entity. This entity shall appropriately mark the excluded areas on the maps required under 333 CMR 13.05(2) and on maps used by the pilots who shall be made aware of the markings delineating the excluded area.

(b) Ground Applications: Boundaries or areas to be excluded shall be marked at least every 50 feet by paper plates or other appropriate means. These markings shall be made known to the person causing the application to be made who shall be responsible for communicating the details of their marking to those who will carry out the application.

(2) Request for exclusion shall not be honored in those cases in which:

(a) The Commissioner of Public Health has certified that the application is to be made to protect the Public Health.

(b) The Commissioner of Environmental management has certified that the application is necessary to contain an infestation of a recently introduced pest.

(c) The Commissioner of Food and Agriculture has certified that the application is necessary to contain an infestation of a pest which is a significant threat to agriculture.

13.05: Application by Aircraft

(1) Except as provided for below, all who elect to control pests by the use of pesticides applied by aircraft shall do so not only after receiving a permit issued by the Department. The Department shall issue such permit in those cases in which the applicant(s) show evidence of acceptance of liability arising from the pesticide application, except that liability legally falling on the applicator, and presents to the Department a plan acceptable to the Department and in compliance with the provisions of M.G.L. c. 132B, and with 333 CMR.

The following classes of applications by aircraft are exempted from the provisions of 333 CMR 13.05(1):

(a) Those carried out under the authority of M.G.L. c. 132 and the regulations promulgated thereunder (304 CMR).

(b) Those carried out in the conduct of mosquito control programs approved by the State Reclamation Board.

(c) Those made to state, county, and municipal lands under the authority granted to the public agencies having control of a such lands, so long as these applications are designed to confine said applications to such public lands.

(d) Those made for agricultural purposes.

(2) Except in the production of an agricultural commodity no applications of pesticides by aircraft shall be made unless the following conditions have been met:

(a) Notification of the proposed application has been given by the person or entity initiating said application to the public residing on adjacent lands by publication of a notice in a newspaper of general circulation normally used by the municipality for legal notices not later than two days before the application and no sooner than ten days before application. The notice shall include the purpose of the control program, the general location of the control area, the control material to be used, the anticipated commencement date and time of the control program, and the name and telephone number of an individual from whom further

information can be obtained.

13.05: continued

(b) Notification of the proposed application has been given to the Department by the person or entity contracting for said aerial application at least two Department business days prior to the proposed application. Said notice shall include but not be limited to information required by 333 CMR 13.05(2)(a).

(c) Notification of proposed application has been given by the person or entity contracting for said aerial application to the local Superintendent of Insect Pest Control.

(d) The site of the application shall be recorded on a U.S.G.S. topographical map which shall be kept on file by the applicator for a period of two years and shall be made available to the Department on request.

In the event of an emergency situation requiring immediate application of pesticides by aircraft, the Department may waive the provisions of 333 CMR 13.05(2)(a) and (b). In the event of a waiver, the Department may expedite the notification process through the use of public service radio television announcements.

(e) Mosquito larvacide applications by mosquito control projects approved by the State Reclamation Board are exempt from 333 CMR 13.05(2)(a) and (b) if the following conditions are met:

1. Notice of the proposed application is published in a newspaper of general circulation in the affected municipality between February 1 and March 1 of the year the application is intended to be made. The notice states the purpose of the control program, the general location of the control area if known, the control material used, and the name and telephone number of an individual from whom further information can be obtained. Within seven days of publication, a copy of the notice shall be provided to the Department and the Board of Health in the municipality where the application is to be made; and
2. Notice of the proposed application is provided to the Department and the Board of Health in the municipality where the application is to be made prior to the application, stating the date, time and location of the application, name of the applicator and the control material to be used.

(3) Agricultural Aerial Applications

(a) No person shall apply pesticides by aircraft unless certified by the Department in the subcategory, Aerial.

(b) The following conditions shall apply to agricultural fixed wing pesticide applications:

1. The Department may approve agricultural field for fixed wing aerial application on an annual basis. No agricultural aerial application of pesticides shall be made by fixed wing aircraft unless a valid permit has been issued by the Department for the field to be treated. The Department shall issue permit's only in those cases where the Department has determined that such fixed wing aerial applications will not cause or will not likely cause injury to humans and will not cause an unreasonable adverse effect to the environment.
2. In no case shall the Department issue a permit without conducting a site inspection of the designated field. The Department shall notify the local board of health of permit application(s).
3. Unless waived by the Department for good cause, permit applications must be received at least 21 days prior to the proposed start of applications and must contain the following information:
 - a. The name, address and phone number of the manager or farmer of the property;
 - b. A Town/City Assessor map, if available, or another map acceptable to the Department provided that the map clearly identifies the field and protected areas especially noting homes, schools, and water bodies;
 - c. The crop planted or to be planted in the field;
 - d. The number of acres of the field;
 - e. Pesticides proposed for application during that season;
4. The Department may impose additional restrictions and conditions on the application of pesticides by fixed wing aircraft to fields approved for such use.

(c) Aerial application of pesticides for the purpose of producing an agricultural commodity shall be made subject to the following conditions:

13.05: continued

1. No application shall be made with ultra low volume technique;
 2. Cease application if there is visible drift to non-target areas. Applications shall not resume until weather conditions or operating conditions have changed as to preclude drift;
 3. No aerial application of liquid formulation pesticides shall be made to an area of an agricultural field if the area to be treated is within 150 feet of a protected area, as defined in 333 CMR 10.02, unless the owner(s) or manager(s) of the property containing the protected area submits a written waiver to the farmer or manager of the site to be treated;
 4. No aerial application of granular formulation pesticides shall be made to an area of an agricultural field if the area to be treated is within 50 feet of a protected area, as defined in 333 CMR 10.02, unless the owner(s) or manager(s) of the property containing the protected area submits a written waiver to the farmer or manager of the site to be treated;
 5. No agricultural aerial application of a liquid formulation pesticide shall be made within 400 feet of a public surface water supply not to include tributaries thereto and no agricultural aerial application of a granular formulation pesticide shall be made within 250 feet of a public surface water supply not to include tributaries thereto.
 6. No agricultural aerial application of pesticides shall be made to an area of an agricultural field if the area to be treated is within 50 feet of adjacent non-agricultural property unless the owner or manager of the abutting property submits a written waiver to the farmer or manager of the site to be treated;
- (d) Unless the pilot or others are endangered, agricultural aerial applicators shall not conduct turns over adjacent protected areas and water bodies not located within the confines of agricultural site;
- (e) Unless the pilot or others are endangered, agricultural aerial applicators shall make swaths parallel to roads, water bodies and protected areas;
- (f) In the agricultural aerial application of a pesticide for the purpose of producing an agricultural commodity, a ground person must be on site to communicate to the pilot of any impending pedestrian or vehicle traffic or other conditions which may result in human exposure to the aerial application.
- (g) Agricultural aerial applicators shall be familiar with Advisory Statements and/or Guidelines issued by the Department for agricultural aerial applications. Said Advisory Statement shall instruct agricultural aerial applicators to conduct applications in a manner to minimize drift to non-target areas and to consider wind speed, height of aircraft, droplet size, air stability and instability, speed of the aircraft and topography when conducting applications.
- (h) No aerial application of a pesticide for the purpose of producing an agricultural commodity shall be made to a site within 500 feet of a protected area as defined in 333 CMR 10.02 unless notice of the application is given by the posting of a sign. All signs posted pursuant to 333 CMR 13.05 shall:
1. Be posted at conspicuous points but in no case less every 200 feet and at every principal entrance fronting a public road;
 2. Be posted at least ten hours prior to the application;
 3. Be removed no sooner than the expiration of any Restricted Entry Interval (REI) stated on the label instructions under the heading "Agricultural Use Requirements." If no REI is provided on the label, then the sign shall remain posted for at least 48 hours after the application.
 4. Be removed no later than 120 hours after the application;
 5. Have a background color that contrasts with red. The words "Danger" and "Peligro," plus "Pesticides" and "Pesticidas" shall be at the top of the sign, and the words "Keep Out" and "No Entre" shall be at the bottom of the sign. Letters for all words must be clearly legible. A circle containing an upraised hand on the left and a stern face on the right must be at the center of the sign. The inside of the circle must be red, except that the hand and a large portion of the face must be in a shade that contrasts with red. The length of the hand must be at least twice the height of the smallest letters. The length of the face must be only slightly smaller than the hand. Additional information such as the name of the pesticide and the date of application may appear on the warning sign if it does not detract from the appearance of the sign or change the meaning of the required information.

13.06: continued

6. Be at least 14 inches by 16 inches in size, and the letters shall be at least one inch in height.
- (i) To be reserved for regulations concerning aerial application of pesticides adjacent to tributaries of public surface water supplies.

13.06: Application of Subsurface Pests

(1) Pursuant to 333 CMR 10.09(2)(e), the Department shall insure that, by April 1, 1984, all applicators certified in Termite and Structural Pest Control shall have satisfactorily completed an updated training program, approved by the Department, and developed by the Massachusetts Advisory Council for Industrial, Institutional, Structural and Health Related Pest Control, Registrants and the Massachusetts Pesticide Coordinator at the University of Massachusetts.

(2) No subsurface pesticide applications shall be made for the control of subterranean termites, to structures with: intra or sub-slab heating ducts; exposed soil areas in basements or crawl spaces; foundations with holes, cracks or voids, or hollow masonry block foundations: except under the following provisions:

(a) Intra or sub-slab hot air heating ducts: Preconstruction. Preconstruction treatment may be made only if:

1. The applicator obtains a signed written statement from the contracting entity stating that the heating ducts will be completely encased in concrete, within or below the slab or that the heating ducts are to be constructed of impervious material such as metal or plastic and which are to be sealed to prevent the chemical from moving as a liquid or a vapor from the soil into the duct. It shall be the sole responsibility of the contracting entity to fulfill the terms of this statement; and
2. The applicator has forwarded a copy of said signed statement described in 333 CMR 13.06(2)(a)1. to the building inspector of the municipality in which the structure is to be constructed. The applicator shall retain a copy of said signed statement in his records for three years.

(b) Intra or sub-slab hot air heating ducts: Post construction.

Treatment within the outside perimeter of an existing structure may be made only if:

1. Prior to treatment of structures with heating ducts in or under a slab, an inspection is performed to determine the location of heating ducts. Steps that may be taken include but are not limited to: review of construction plans, consultation with the owner or builder, or the use of a metal detector, and
2. Application under the slab is limited to gravity or low pressure treatment. Pressure treatment over 25 lbs. P.S.I. at the nozzle shall not be use, and

NON-TEXT PAGE

13.06: continued

3. There is evidence of an existing termite infestation in the structure or in the absence of such evidence, the applicator obtains a signed written statement from the contracting entity requesting such application, and stating that the contracting entity understands that the application could result in contamination of the heating ducts, and that in the event of such contamination significant structural modification to the heating system may be required.

(c) Exposed soil areas in basements and crawl spaces. Treatment of exposed soil areas (ie., areas which do not have a concrete or bituminous slab cover) in basements and crawl spaces may be made only if:

1. Treatment is made by rodding the interior of the foundation provided that pressure at the nozzle shall not exceed 50 psi and discharge of the termiticide liquid does not occur unless the orifices in the rodding tool are approximately four inches below the surface or treatment is made by trenching the interior of the foundation and applying the termiticide into the trench to allow it to reach the footing. The trench must be filled with treated soil, then covered with approximately four inches of untreated soil, and
2. The area treated is subjected to ventilation to the outside by either existing window or vents or the installation of vents in walls which will provide cross ventilation or the application shall be limited to not more than one half the maximum percent active ingredient of finished termiticide allowed on the label.

(d) Foundations with holes, cracks or voids. Treatment of areas outside the perimeter of buildings which have basements or crawl spaces which extend below the level of the outside grade and which have holes, cracks or voids which may allow infiltration of the pesticides applied may be made only if: visible holes, cracks and voids are filled with mortar or other suitable material to the extent feasible prior to the application to prevent infiltration of pesticides into basements or crawl spaces or treatment is limited to trenching the soil to the appropriate depth and treating the removed soil prior to replacing the soil in the trench, provided that such treatment is consistent with label directions. The treated soil must be covered with a layer of untreated soil.

(e) Hollow masonry block foundations. Pesticides may be applied to the inside of hollow masonry blocks only if the top of the blocks and all insertion holes are sealed to the extent possible immediately following the pesticide application.

(f) Applicable to all termiticide applications. Prior to entering into any contract to apply termiticides, or prior to any termiticide application if a contract exists before the effective date of 333 CMR 10.00; the applicator shall provide the contracting entity with a written statement of notification provided by or approved by the Department which shall contain such information that the Department determines necessary. Such notification shall include but not be limited to information relative to possible accidental contamination sometimes associated with subsurface applications, and steps taken to reduce the risk of such contamination. In such case that the written statement is not available from the Department the applicator shall provide the contracting entity with a copy of the pesticide label, the material safety data sheet, the EPA fact sheet for the product intended for use and a copy of 333 CMR 13.06(2)(a)1..

13.07: Application for Turf Pests

(1) No commercial application of pesticides shall be made for the control of turf pests on residential properties without the following provisions:

- (a) Prior to entering into any agreement to apply pesticides to residential lawns, or prior to renewal of an existing agreement to apply pesticides to residential lawns, the applicator, or his/her employer, shall provide the contracting entity with a written statement approved by the Department which shall contain such information that the Department determines necessary. Such information shall include but not be limited to information relative to the pesticides used in lawncare programs and measures of safety for humans and the environment from such pesticide applications. In such case that the written statement is not available from the Department, the applicator shall provide the contracting entity with a copy of the pesticide label, the material safety data sheet, the EPA fact sheet for the product intended for use, if available and a copy of 333 CMR 13.07(1) and 333 CMR 13.07(2).

13.07: continued

(b) At the time of entering into any agreement to apply pesticides to residential lawns, or at the time of renewal of an existing agreement to apply pesticides to residential lawns, the applicator, or his/her employer, shall provide the contracting entity with the opportunity to request prior notification from the applicator, or his/her employer, or each application made to said property.

(c) Upon completion of each application, the applicator, or his/her employer, shall leave at the residence a written statement containing the following information:

1. The name and license/certification number of the applicator;
2. The name of the pesticide(s) that were applied to the property and for what purpose;
3. Any precautions indicated on the labeling relative to any post-application requirements;
4. The date and time of application.
5. "The signs should remain posted for a period of 72 hours unless otherwise recommended by the Department of Food and Agriculture".

(d) The applicator shall, prior to commencing each application, post signs approved by the Department on the lawn intended for treatment in conspicuous points of access to the property. The applicator must leave such sign or signs posted on the property and shall instruct the customer as to their appropriate removal.

(2) No application of pesticides shall be made for the control of turf pests on public or private non-residential properties without the following provisions:

(a) Prior to entering into any agreement to apply pesticides to public or private non-residential lawns, or prior to renewal of an existing agreement to apply pesticides to public or private non-residential lawns, the applicator, or his/her employer, shall provide the superintendent or manager of the contracting entity with a written statement approved by the Department which shall contain such information that the Department determines necessary.

Such information shall include but not be limited to information relative to the pesticides used in lawncare programs and measures of safety for humans and the environment from such pesticide applications. In such case that the written statement is not available from the Department, the applicator shall provide the manager or superintendent of the property with a copy of the pesticide label, the material safety data sheet, the EPA fact sheet for the product intended for use, if available, and a copy of 333 CMR 333 CMR 13.07(1) and 333 CMR 13.07(2).

(b) The applicator, or his/her employer, shall provide the manager or superintendent of the contracting entity with the opportunity for pre-notification of each application as provide for in 333 CMR 13.07(1)(b).

(c) After each application, the applicator shall notify the contracting entity, manager or superintendent of the property of the application including the information provided for in 333 CMR 13.07(1)(c)1. through 5.

(d) The applicator shall post sign(s) on treated properties as provided for in 333 CMR 13.07(2)(d).

13.08: Unique Chemical Application

(1) Microencapsulated methyl parathion shall be used or applied in Massachusetts only as provided for below:

(a) Microencapsulated methyl parathion shall only be used or applied to control first generation European Corn Borer on sweet corn, San Jose scale on apples or for those uses which the Department finds do not expose honey bee populations to the spray pattern or the resultant residues of the pesticide.

(b) Applications to control European Corn Borer shall not be applied after July 1 of any year unless such date is amended by the Department for good cause.

(c) Each use of microencapsulated methyl parathion shall only be made under the authority of a permit issued by the Department.

13.08: continued

(d) A condition of any permit issued for outdoor use of microencapsulated methyl parathion shall be that where there exist an occurrence of significant flowering plants being visited by honey bees for the purpose of gathering nectar or pollen in the field or orchard being treated, or on those areas on the borders of such fields or orchard to which spray may drift; applicators must take appropriate steps such as mowing ground cover prior to application to minimize the occurrence of bloom at the time of the pesticide use.

(e) No licensed dealer in restricted pesticides or any other dealer shall sell microencapsulate methyl parathion to any person who does not possess a currently valid permit to use this pesticide.

(f) No other person shall sell, trade, or otherwise transfer microencapsulated methyl parathion to any person who does not possess a currently valid permit to use this pesticide.

(2) Use and Disposal of Pesticide Products Containing Tributyltin

(a) No person shall apply anti-fouling products containing tributyltin to the hull or bottom of any non-aluminum hulled boat, ship or vessel less than 25 meters in length;

(b) No person shall disperse, dispose of or deposit paint, paint scrapings, paint chips or paint waste containing tributyltin into any lake, stream, harbor, estuary, ocean, marina, canal or other water body. Tributyltin product wastes must be disposed of in a manner as not to contaminate any lake, stream, harbor, estuary, ocean, marina, canal or area subject to the Wetlands Protection Act.

13.09: Safety

(1) It shall be the responsibility of any person, certified or licensed by the Department to apply pesticides to acquaint those working under him with the hazards involved in the handling of the pesticides to be employed as set forth in the pesticide label, and to instruct the employees as to the proper steps to be taken to avoid such hazards. Self employed users of pesticides must become familiar with these hazards and precautions before using pesticides.

(2) It shall be the responsibility of an employer to provide, for the protection of his employees, the necessary safety equipment as set forth on the label of the pesticide to be used.

13.10: Commercial Application of Pesticides to Indoor Settings(1) Definitions.

Public Buildings means buildings where the public has access, work, recreate including but not limited to commercial buildings, day care centers, nursery schools, institutions, health care facilities, restaurants, hotels, motels, schools, places of worship for public meeting places, stores, malls, airports and other public places.

(2) General Requirements.

(a) Applicators shall take all practical steps necessary to avoid applications with people present in a room or area to be treated. Individuals occupying a room or area to be treated at the time of application shall be informed of the procedure.

(b) Pesticide applications shall be made in a manner which minimizes exposure to humans and pets.

(c) Pesticide applications shall immediately cease if there is risk that 333 CMR 13.00 or label requirements are not or cannot be satisfied.

(d) Pesticide application equipment shall be used in accordance with its manufacturer's recommendations and instructions, and shall be in sound mechanical condition, free of leaks and other defects or malfunctions which might cause pesticides to be deposited in a manner that would represent unreasonable exposure to humans or pets.

(e) Applications made to kitchen and food preparation areas shall be done in a manner to protect food, food contact surfaces, dishes and utensils from exposure.

(f) Applications of disinfectants, algaecides, antimicrobials, paints, stains, wood preservatives, enclosed baits, and traps are exempt from 333 CMR 13.00.

13.10: continued

- (g) Rodenticide bait stations shall carry a label which indicates:
 1. Name and phone number of the company making the application;
 2. Brand name and EPA Reg. No. of the pesticide;
 3. Active ingredient;
 4. Date of application.

(3) Notification and Disclosure.

(a) No commercial application of pesticides shall be made for the control of indoor household or structural indoor pests to a residence without the following provisions:

1. Prior to entering into an agreement or renewal of an existing agreement or on an annual basis to apply pesticides for the control of indoor household or structural pests, the applicator or their employer shall provide to the contracting entity a written statement approved by the Department. The written statement shall include but not be limited to information relative to the pesticides used in indoor settings; precautions for sensitive individuals such as children, elderly citizens, pregnant women and those with health problems, and; ways to minimize exposure, preparations to protect food, dishes, utensils, toys and pets.
2. At the time of receiving a request from a person for the control of indoor household or structural pests in their dwelling, the applicator or their employer shall provide to the resident a written statement approved by the Department. Such written statements shall include but not be limited to information relative to the pesticides used in indoor settings; precautions for sensitive individuals such as children, elderly citizens, pregnant women and those with health problems, and; ways to minimize exposure, preparations to protect food, dishes, utensils, toys and pets.
3. Upon completion of each application, the applicator or their employer shall leave with the contracting entity, and to residents upon their request, a written statement containing the following information:
 - a. Name and phone number of the pest control company;
 - b. Name and license number of the applicator;
 - c. purpose of application and why it was necessary;
 - d. Name of the pesticide product and, EPA Registration Number.
 - e. Date and approximate time of application.
 - f. Any precautions indicated on the labeling relative to any post-application requirements.
4. Applicators or their employers shall provide to the residents of buildings treated with rodenticides, the location(s) where bait stations were left upon request.

(b) The applicator or their employer shall pre-notify the occupants of residential units between seven days and 48 hours prior to any routine commercial application of pesticides for the control of indoor household or structural indoor pests through the distribution of a Department approved notification form to each unit. Notification shall contain, at a minimum, the following information:

1. Name and phone number of the pest control company;
2. Purpose of application and why it is necessary;
3. Name of potential pesticide product(s) and EPA Registration Number.
4. Proposed date and approximate time of application.
5. Department approved statement of precaution for sensitive individuals such as children, elderly citizens, pregnant women and those with health problems.
6. Ways to minimize exposure, preparations to protect food, dishes, utensils, toys and pets.
7. Address and phone number of the Pesticide Bureau and Poison Control Center.

(c) Public Buildings - No commercial application of pesticides shall be made for the control of indoor household or structural pests in public buildings without the following provisions:

1. Prior to entering into an agreement or renewal of an existing agreement or on an annual basis to apply pesticides for the control of indoor household or structural pests, the applicator or their employer shall provide to the contracting entity a written statement approved by the Department. The statement shall include information on the regulations, techniques to minimize human exposure, and posting requirements and recommendations.

13.10: continued

2. Prior to commencing each application, the applicator shall post a notice approved by the Department on all of the entrances to the treated room or area. The applicator must leave such notices posted after the application.
3. The applicator or their employer shall provide to any person upon their request the following information on previously conducted applications:
 - a. specific location(s) treated including location(s) of rodenticide bait stations;
 - b. date and time of the application;
 - c. pesticide applied which shall include disclosing the brand name, active ingredient, EPA Registration Number and providing a copy of the label.
- (d) Applicators or their employers shall provide pre-notification to any person upon their request which will include the date of the next treatment, the locations to be treated and potential pesticide(s) that may be used.

REGULATORY AUTHORITY

333 CMR 13.00: M.G.L. c. 132B, §§ 5, 6, 6A and 10

NON-TEXT PAGE